

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish
Policies and Cost Recovery Mechanisms for
Generation Procurement and Renewable
Resource Development.

Rulemaking 01-10-024
(Filed October 25, 2001)

**ASSIGNED COMMISSIONER'S AND ADMINISTRATIVE LAW JUDGE'S
RULING CHANGING THE PROCEDURAL SCHEDULE FOR TESTIMONY
AND HEARING IN RESPONSE TO SOUTHERN CALIFORNIA
EDISON COMPANY'S MOTION OF MAY 6, 2002**

Summary

This ruling responds to Southern California Edison Company's (Edison's) "Motion for an Interim Decision Granting Approval of Process for Early Procurement of Capacity" filed on May 6, 2002. In its motion, Edison seeks a shortened comment and reply period and an expedited Commission decision that would allow for approval of capacity contracts for 2003 and beyond before the Commission completes the evidentiary hearings scheduled in this proceeding.

Edison's proposal is a creative means of allowing Edison to resume the responsibility to procure power for its customers by January 1, 2003 and, as this is a key objective of this proceeding, the proposal merits further consideration. Of particular interest, Edison's proposal addresses the issues within the statutory framework set forth under AB X1, thus making this proposal a viable option that the Commission could adopt.

However, the authority sought by Edison should not be considered outside of the full factual and evidentiary record that is being developed here, and in the instance where Edison's request is beyond the present scope of the proceeding, the record must be supplemented with additional testimony in order for the Commission to have the necessary record to consider Edison's request in an expedited manner. Therefore, we direct Edison and the other two respondent utilities to file supplemental testimony and we provide additional time for interested parties to respond to Edison's proposal and the forthcoming supplemental testimony in their rebuttal testimony.¹

Edison's Motion

In its motion, Edison requests the Commission issue an interim decision authorizing the following framework:

- (1) SCE would negotiate contracts of up to five-years duration for delivery of services provided by capacity to SCE's customers in 2003 and beyond;
- (2) SCE and DWR would enter into each contract with capacity suppliers;
- (3) Each contract would provide that, if seller performance begins prior to when SCE regains its investment-grade credit rating, DWR would be the buyer.

¹ We direct all three respondent utilities to file supplemental testimony because any decisions we reach that rely on the megawatt (MW) allocation of Department of Water Resources contracts must include consideration of all three respondent utilities. In addition, Pacific Gas and Electric Company (PG&E) in its May 1, 2002 testimony at page 3-2 also states that the Commission should consider authorizing the utilities to enter capacity contracts for a limited amount of long-term power for a minimum of five years, indicating to us that it might join Edison in its motion.

- (4) SCE will amend, with Commission approval, its Letter Agreement to DWR (dated February 28, 2002) to provide that, if DWR is required to be the buyer under any contract, owing to seller performance beginning prior to when SCE regains its investment-grade credit rating, then SCE will promptly reimburse DWR all costs incurred under the contract.
- (5) Each contract would also provide that once SCE regains its investment-grade credit rating, SCE would take delivery of capacity under the contract and DWR would have no further responsibilities under the contract.
- (6) Each contract would be subject to commission approval within 30 days of execution. Upon execution of each contract, SCE would submit the contract to the energy division for approval. The Energy Division would approve the contract within 30 days, unless it provides specific reasons why the contract is not in the best interest of SCE's ratepayers.
- (7) Any costs that DWR incurs which are reimbursed by SCE would be paid for by SCE's customers as part of SCE's procurement-related revenue requirement.

Edison states that the negotiation and establishment of a capacity contract is a complicated process that requires substantial lead time. Therefore, in order to obtain capacity products to serve Edison's customers in 2003, it will need to begin negotiating and entering into these contracts very soon. For this reason, Edison requests that the Commission issue an interim decision by June 15, 2002.

The Need for Additional Information to be Considered

Edison states in its motion that its request is not an issue upon which hearings are necessary. However, in its May 1, 2002 testimony at page 1-6 it asserts:

To provide necessary consumer protections, utilities must have the flexibility to satisfy a portion of their customers' residual net-short requirements through multi-year capacity and forward energy contracts. Capacity contracts, in particular, can be complex to

negotiate and are unlikely to be available at reasonable terms on a one-year basis. Rather than arbitrarily precluding the possibility of multi-year capacity and forward energy contracts, **the Commission should consider as part of this proceeding (on a factual, evidentiary basis) the wisdom of allowing them and the quantity that would be allowed.** Therefore, as laid out in Volume 2 of its testimony, SCE urges the Commission to give SCE the ability to pursue an amount of multi-year contracts for capacity, forward energy and other related products. (Bold type not in testimony.)

A critical part of the evidentiary record we need to evaluate Edison's proposal is a reliable forecast at the hourly operational level of its residual net-short requirements for 2003 and beyond. To date, Edison and the other respondent utilities state that they cannot provide this forecast until there is (1) resolution of issues related to the allocation of DWR contract power and ongoing coordination of DWR and utility supply activities and (2) more certainty regarding direct access customer loads.

Recent events, however, indicate that the information is now available for the utilities to be able to meet with DWR to determine whether if a joint proposal for resolving the contract allocation and coordination issues can be developed, in whole or in part, and brought into the hearing process for consideration, together with more detailed forecast(s) of each utility's net short requirements for 2003 and beyond. These events are (1) DWR's May 7, 2002 letter in which it states that in order to assist the Commission and parties, it will provide written responses to data requests from parties in this proceeding; and (2) a scheduled May 17, 2002 filing by DWR in the Direct Access proceeding, Rulemaking (R.) 02-01-011, of eight scenarios, including hourly dispatch assumptions, of illustrative cost responsibility surcharges based upon projected direct access customer load in the service territories of the three utilities.

Therefore, we direct Edison to quickly organize and coordinate a series of meetings between the three utilities, DWR, the Commission staff, and all

interested reviewing representatives of parties who have access to protected information in this proceeding. The purpose of these meetings is to develop, in whole or in part, a proposal, or proposals, to resolve the physical allocation of DWR contracts and MWs between the three utilities and to also resolve the scheduling and dispatching coordination issues raised in testimony and earlier comments on transition issues. The focus is on the physical allocation and administration of the DWR contracts, not on the revenue requirement.

On May 24, 2002, the utilities should serve supplemental testimony that includes (1) any proposal(s) developed through the above process; and (2) an updated forecast(s) on an hourly basis of their projected net short requirements in 2003 and any information on the projected net short for future years that would assist the Commission in considering approval of a longer term capacity contract proposal.²

Any interested parties who participate in the meeting process are also welcome to serve testimony. All interested parties will have the opportunity to address the supplemental testimony in their rebuttal testimony and to specifically discuss whether the Commission should consider Edison's proposal on an expedited basis and, if so, what that process and schedule should be.

Revised Procedural Schedule

Based on the above discussion, the following revised procedural schedule for testimony and hearings is adopted. To efficiently organize the hearings, a prehearing conference is scheduled. A briefing and proposed decision(s)

² For direct access customer load, the utilities should include a high and low scenario, based on the May 17, 2002 DWR filing, with testimony addressing the sensitivity of variation in the range of direct access load to procurement results.

schedule will be set at the close of evidentiary hearings. A final oral argument is also scheduled at the close of hearings in order that all Commissioners can hear directly from the parties in a timely manner.

Supplemental testimony served by the utilities	May 24, 2002
Direct testimony served by interested parties	May 31, 2002
Rebuttal testimony served by all parties	June 5, 2002
Cross examination estimates and witness order e-mailed to the undersigned ALJ by 4:00 pm	June 6, 2002
Prehearing Conference	June 7, 2002
Evidentiary Hearings	June 10-June 25, 2002
Oral argument before the Commission	June 26, 2002

Therefore, **IT IS RULED** that that the procedural process and revised schedule set forth above are adopted.

Dated May 15, 2002, at San Francisco, California.

/s/ LORETTA M. LYNCH
Loretta M. Lynch
Assigned Commissioner

/s/ ANGELA K MINKIN for
Christine M. Walwyn
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's and Administrative Law Judge's Ruling Changing the Procedural Schedule for Testimony and Hearing in Response to Southern California Edison Company's Motion of May 6, 2002 on all parties of record in this proceeding or their attorneys of record.

Dated May 15, 2002, at San Francisco, California.

/s/ JEANNIE CHANG
Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.